

REMARKS

This responds to the Office Action mailed on November 3, 2006.

Claims 1, 4, 5, 7, and 8 are amended; claims 6 and 13-37 are canceled; and claims 38-41 have been added. As a result, claims 1-5, 7-12, and 38-41 are now pending in this application.

For the convenience of the Examiner, Applicants' remarks concerning the claims will be presented in the same order in which the Examiner presented them in the Office Action.

New Claims 38-41

Claims 38-41 have been added. No new matter has been introduced.

Claims 38 and 40 recite that the application comprises a game. Claims 39 and 41 recite that the application comprises a multi-player game.

Support for these claims may be found, for example, in original claims 29, 34, and 36.

Amendments to Claims 1, 4, 5, 7, and 8

Claims 1, 4, 5, 7, and 8 have been amended. No new matter has been introduced.

Claim 1 has been amended by deleting "first" (two instances) and "second", and by inserting the phrase "terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application on the master device", previously recited in claim 6.

Claims 4, 5, and 7 have been amended by substituting "application" for "first application". In claim 7, "application" has also been substituted for "second application".

Independent claim 8 has been amended by deleting the phrase "for a selected time period" and adding the phrase "only for so long as the application is being executed on the master device". Support for this language may be found, for example, at page 3, lines 3-9, and at page 8, lines 5-12, of the original disclosure.

Rejection of Claims 1-3 and 7-10 under 35 U.S.C. §102(e)
as Anticipated by Simelius

Claims 1-3 and 7-10 were rejected under 35 U.S.C. §102(e) as being anticipated by Simelius (U.S. 2005/0071278). Applicants do not admit that Simelius is prior art and reserve the right to swear behind Simelius as provided for under 37 C.F.R. §1.131.

The rule under 35 U.S.C. §102 is well settled that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131.

Simelius does not appear to disclose all of the elements recited in independent claims 1 and 8, as amended.

Regarding claim 1, Simelius does not appear to disclose *inter alia* “enabling execution of an application on a shareable device by executing the application on the master device and by allocating the shareable license to the shareable device”. In Simelius, successful execution of an application on a shareable device does not appear to require executing the application on the master device. As best understood, in Simelius, the shareable device may execute the application independent of the master device (see para. 0130). Therefore, in Simelius, execution of the application on the “child device” does not appear to require that the application be currently executed on the master device, as in claim 1 of the instant application.

Additionally, Simelius does not appear to disclose *inter alia* “terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application on the master device.” In Simelius, the application executing on the shareable device does not appear to terminate upon termination of the application executing on the master device. As best understood, in Simelius, the application executing on the shareable device may continue to execute even after the application executing on the master device has terminated.

Regarding independent claim 8, Simelius does not appear to disclose *inter alia* “enabling execution of the application on a shareable device by allocating the shareable license to the shareable device only for so long as the application is being executed on the master device”. As described above, in Simelius, the execution of the application on a shareable device may occur

even while the application is not being executed on the master device (see para. 0130).

For the above reasons, independent claims 1 and 8 should be found to be allowable over Simelius, and Applicants respectfully request that the rejection of claims 1 and 8 under 35 U.S.C. §102(e) as anticipated by Simelius be withdrawn.

Claims 2, 3, and 7, which depend directly or indirectly from claim 1 and incorporate all of the limitations therein, are also asserted to be allowable for the reasons presented above.

Claims 9 and 10, which depend from claim 8 and incorporate all of the limitations therein, are also asserted to be allowable for the reasons presented above.

**Rejection of Claims 4, 6, and 12 under 35 U.S.C. §103(a)
as Unpatentable over Simelius and Further in View of Lopatic**

Claims 4, 6, and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Simelius and further in view of Lopatic (U.S. 2002/0138441).

Claim 6 has been canceled, its language being incorporated into independent claim 1.

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, the prior art reference (or references when combined) must teach or suggest every limitation of the claim. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA, 1974). MPEP §2143.

Neither Simelius nor Lopatic disclose all of the elements recited in independent claims 1 and 8, as amended. For example, regarding claim 1, neither Simelius nor Lopatic disclose “enabling execution of the application on a shareable device by executing the application on the master device and by allocating the shareable license to the shareable device; and terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application on the master device”.

Simelius was discussed above.

In Lopatic, as best understood, two different “applications” are disclosed: a license server application and an end-user application (see para. 0169). The application executing on the license server in Lopatic is different from the application executing on the end-user device.

For the above reasons, independent claims 1 and 8 should be found to be allowable over any combination of Simelius and Lopatic, and Applicants respectfully request that the rejection

of claims 1 and 8 under 35 U.S.C. §103(a) as unpatentable over Simelius and further in view of Lopatic be withdrawn.

If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious. MPEP §2143.03.

Claim 4, which depends from claim 1 and incorporates all of the limitations therein, is also asserted to be allowable for the reasons presented above.

Claim 12, which depends from claim 8 and incorporates all of the limitations therein, is also asserted to be allowable for the reasons presented above.

Rejection of Claim 5 under 35 U.S.C. §103(a)
as Unpatentable over Simelius and Further in View of Misra

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Simelius and further in view of Misra et al. (U.S. 2005/0102240).

Claim 5 is dependent upon claim 1. The asserted combination of Simelius in view of Misra fails to teach or suggest all of the claim limitations present in independent claim 1, so a *prima facie* case of obviousness has not been established. As was pointed out earlier, regarding the §103 rejection of the independent claims, Simelius fails to disclose at least one element in claim 1. Nor does the addition of Misra disclose the missing claim element.

For the above reasons, claim 5 should be allowable.

Rejection of Claim 11 under 35 U.S.C. §103(a)
as Unpatentable over Simelius and Further in View of Aldis

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Simelius and further in view of Aldis et al. (U.S. 2004/0039916).

Claim 11 is dependent upon independent claim 8. The asserted combination of Simelius in view of Aldis fails to teach or suggest all of the claim limitations present in independent claim 8, so a *prima facie* case of obviousness has not been established. As was pointed out earlier, regarding the §103 rejection of the independent claims, Simelius fails to disclose at least one element in independent claim 8. Nor does the addition of Aldis disclose the missing claim element.

For the above reasons, claim 11 should be allowable.

Additional Elements and Limitations

Applicants consider additional elements and limitations of the claims to further distinguish over the cited references, and Applicants reserve the right to present arguments to this effect at a later date.

Conclusion

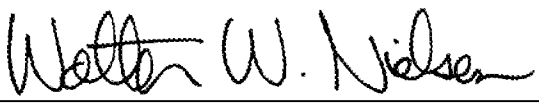
Applicants respectfully submit that claims 1-5, 7-12, and 38-41 are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney, Ann M. McCrackin (located in Minneapolis, Minnesota) at (612) 349-9592 or Applicants' below-signed attorney (located in Phoenix, Arizona) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

KRYSTOF C. ZMUDZINSKI ET AL.

By their Representatives,
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, Minnesota 55402
(602) 298-8920

By /  /

Walter W. Nielsen
Reg. No. 25,539